

The parties, by their undersigned counsel, held a conference pursuant to Rule 26(f) on September 26, 2022 at 8:00 CST via telephone conference. The parties hereby jointly submit the following report consistent with Rules 16 and 26 of the Federal Rules of Civil Procedure, as well as this Court's Standing Order Governing Preliminary Pretrial Conferences.

This action arises from Defendants willful copyright infringement of Plaintiffs’ copyrighted and valuable illustration of a highly detailed and particularized depiction of a walleye fish, registered as one of a collection of works under U.S. Copyright Registration No. VAu VAu-1-021-822 (the “Subject Work”). Defendant Stratford Sign Company, LLC (“Stratford Sign”) created a logo for Defendant Robert Snider d/b/a Trappers Point Camp (“Snider”) that unlawfully incorporated the Subject Work and therefore is an unauthorized derivative work (the “Accused Work”). Defendant Snider used the Accused Work in

connection with the marketing and promotion of his business since approximately 2014 but Plaintiffs discovered the infringement in December of 2021. Shortly thereafter, Snider received a cease-and-desist letter regarding the use of the Accused Work. Despite receiving the letter, and a new non-infringing logo from Stratford Sign, Snider continued to commercially exploit the Accused Work and did so past the initiation of litigation.

As contended by Defendant Robert Snider d/b/a Trappers Point Camp:

Defendant Robert Snider operates a fishing camp in Ontario, Canada called “Trappers Point Camp.” Robert Snider purchased usable artwork and design services from Stratford Sign Company, and Stratford Sign Company created a logo image (the “Logo”) for the Trappers Point Camp. Plaintiff alleges that the Walleye fish incorporated into the Logo is copied from Plaintiff’s Subject Work, and thus Plaintiff claims his copyright has been violated. Plaintiff is claiming Copyright over the natural expression of Walleye Fish.

As contended Defendant Stratford Sign Company, LLC:

Stratford Sign denies that the logo it provided to Trappers Point infringes the copyright asserted by plaintiffs.

II. RELATED CASES

There are no related cases.

III. ISSUES PRESENTED

The Parties agree that the following material legal and factual issues exist:

- a. Whether plaintiffs can prove that they own a valid copyright;
- b. Whether plaintiffs can prove that defendants copied protected elements of a valid copyright;

- c. Whether defendants' affirmative defenses bar plaintiffs' claims or limit recovery, in whole or in part;
- d. If infringement is proven, and Plaintiffs have elected statutory damages, whether defendants are innocent infringers under 17 U.S.C. § 504;
- e. If infringement is proven, what damages, if any, plaintiffs have proven under 17 U.S.C. 504(b);
- f. If there is a prevailing party at the end of the case, whether the prevailing party is entitled to its reasonable attorneys' fees and costs and, if so, how much and who should be liable; and
- g. The validity and scope of Robert Snider's cross claim against Stratford Sign Company LLC.

IV. AMENDMENTS TO PLEADINGS AND NEW PARTIES

Plaintiffs state that the Complaint will be amended to name Trappers Point Camp, separate, distinct, and in addition to its principal, Robert Snider. To the extent that discovery uncovers that the principals of either corporate defendant directly engaged in infringing behavior, Plaintiff shall seek to amend the complaint to add said individuals.

Stratford Sign objects to any attempt by plaintiffs to add individuals to this case as defendants as an unnecessary act of harassment and litigation abuse.

V. DISCOVERY PLAN

- a. The Parties will serve their initial disclosures in accordance with Fed. R. Civ. P. 26(a)(1)(A) by October 21, 2022.
- b. ESI. The parties will cooperate in arranging the exchange of discoverable documents, experts' reports, and data in appropriate formats.

- c. Plaintiffs anticipate Defendant Snider's prior counsel – Beau McGraw, Esq. – will have information relevant to the events that occurred between receipt of Plaintiffs' cease and desist letter and prior to the hiring of current counsel. Plaintiffs proposed a Deposition by Written Questions, pursuant to Rule 31. Plaintiffs' counsel does not anticipate that these questions would seek any privileged information but solely to confirm certain factual events, generally concerning the communications between Plaintiffs' counsel and Mr. McGraw. Counsel for the relevant parties have discussed the possibility of entering a stipulation and will review the subject in greater detail. Plaintiffs' will not seek discovery from Mr. McGraw unless the relevant parties are unable to reach a stipulation, or if the stipulation does not address all potential discoverable facts.
- d. The parties agree that each party is permitted to serve:
 - i. 25 interrogatories on each party without leave of court.
 - ii. 25 Requests for admissions
 - iii. 50 Requests for Production of Documents
- e. Each party will be allowed up to 10 depositions of fact witnesses.

VI. ESTIMATED TRIAL LENGTH

The parties estimate that a trial on Plaintiffs' copyright infringement claims will take three to five trial days; the parties in connection with the cross-claim estimate that the trial on the issue of contribution will take two days, and the cross-claim trial should not occur until after judgment is entered and all appeals exhausted on the underlying copyright infringement case because the result of that case is relevant to what the jury would be asked to decide in the cross-claim.

VII. PROPOSED SCHEDULE

In accordance with this Court's *Standing Order Governing Preliminary Pretrial Conferences*, The Parties propose the following schedule

- a. Trial Date: December 11, 2023;
- b. Deadline for Dispositive Motions: June 2, 2023;
- c. Discovery End Date: November 3, 2023;
- d. Deadline to Amend Pleadings: November 18, 2022;
- e. Plaintiffs' Expert Report Deadline: March 3, 2023;
- f. Defendants' Expert Report Deadline: April 17, 2023.

VIII. ADDITIONAL MATTERS

In addition to the items discussed above, the parties also discussed the possibility of promptly settling or resolving the case. Specifically, Plaintiffs' counsel has indicated that he will initially serve limited written discovery demands with the intention that full and complete responses would allow Plaintiffs to serve settlement demands on Defendants. The Defendants may also serve discovery requests for information needed to evaluate settlement. Should settlement talks fail, the Parties will continue with discovery.

Stratford Sign recommends that trial on Trapper's Point's cross-claim against Stratford Sign be bifurcated and not occur until final judgment is entered and all appeals exhausted on the underlying copyright infringement claim. The cross-claim seeks indemnification and contribution from Stratford Sign on any judgment entered on the underlying copyright infringement claim by plaintiffs. So it would make the most sense to determine with finality what the judgment is before a trial is commenced on the issue of what liability Stratford Sign has on the judgment, if any.

Defendant Snider respectfully disagrees on the need for bifurcation, and believes that the cross-claim can be tried simultaneous with the underlying action.

Dated: September 28, 2022

Respectfully Submitted,

/s/ Dmitry Lapin

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